

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Charlotte Ann Smith,

Plaintiff,

vs.

US Bank National Association
as Trustee successor in interest to Bank
of America NA as successor by merger
to LaSalle Bank NA as Trustee for
Certificate Holders of EMC Mortgage
Corporation Loan Trust 2005-A
Mortgage Loan Pass-Through
Certificates Series 2005-A,

EMC Mortgage Corporation, and Parent
Companies, The Bear Stearnes
Companies, LLC and JP Morgan Chase
& Companies,

Guardian Fidelity Mortgage, Inc.,
Guardian President and CEO Howard
H. Wright, Jr., Guardian Assistant
Manager Stacey Youngblood, Guardian
Chairman of the Board John Good,
Guardian Member
Owners/Shareholder[s]/
Stockholders,

Defendants.

C/A No.: 0:11-3251-MBS

ORDER AND OPINION

On November 16, 2011, Plaintiff Charlotte Ann Smith ("Plaintiff") brought this pro se action in the Court of Common Pleas in York County, South Carolina based on financial transactions she entered into with Defendants related to a parcel of real estate she attempted to develop. On November 30, 2011, Defendants removed the case. In accordance with 28 U.S.C. § 636(b)(1)(A) and Local Rule 73.02(B)(2)(g), D.S.C., the action was referred to United States

Magistrate Judge Joseph R. McCrorey and subsequently to Magistrate Judge Shiva V. Hodges for review of pretrial matters.

On May 17, 2012, various Defendants filed a joint motion to dismiss, for judgment on the pleadings and for summary judgment. See ECF No. 40. Pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was notified of the consequences of failing to adequately respond. Nonetheless, Plaintiff failed to respond to the motion.

On June 22, 2012, the Magistrate Judge ordered Plaintiff to advise whether she wished to continue with the case by July 6, 2012. Plaintiff failed to respond. On July 9, 2012, the Magistrate Judge filed a Report and Recommendation, wherein she recommended that Plaintiff's action be dismissed with prejudice for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). Plaintiff has not filed objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the report or specified proposed findings or recommendations to which an objection is made. The court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. The court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs with the Magistrate Judge's recommendation and incorporates the Report and Recommendation herein. The court hereby dismisses Plaintiff's action with prejudice for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

s/ Margaret B. Seymour
Margaret B. Seymour
Chief United States District Judge

July 31, 2012
Columbia, South Carolina